

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

EURAL SCURLARK,

Plaintiff,

v.

QUALITY ASSET RECOVERY, LLC,

Defendant.

Case No.: 5:20-cv-01242-JKP-HJB

JOINT RULE 26(f) REPORT

1. Are there any outstanding jurisdictional issues? For removed cases based on diversity jurisdiction, do the parties agree that the parties (including any members of a partnership or LLC) are diverse and that the amount in controversy exceeded \$75,000 at the time of removal? If not, each party should state its position on the diversity of the parties and the amount in controversy.

None.

2. Are there any unserved parties? If more than 90 days have passed since the filing of the Complaint or Petition, should these unserved parties be dismissed?

All parties have been served.

3. What are the causes of action, defenses, and counterclaims in this case? What are the elements of the cause(s) of action, defenses, and counterclaims pled?

Cause of Action is based on a violation of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 et seq. Specifically, Plaintiff is alleging that Defendant did not specifically comply with 1692g(a) of the FDCPA which provides that within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial

communication or the consumer has paid the debt, send the consumer a written notice containing – the name of the creditor to whom the debt is owed.

Defendant filed a Motion to Dismiss Plaintiff's Amended Complaint on January 26, 2021, on the basis that Plaintiff has failed to state a plausible claim upon which relief can be granted. (Doc. 9). Defendant denies that it violated the FDCPA or that it is liable to Plaintiff in any way. The FDCPA does not require that a collection agency use the words "current creditor" in a letter. Defendant's letter dated September 17, 2020 complied with Section 1692g of the FDCPA by clearly and unambiguously identifying the Fire Department of the City of Grand Prairie as Plaintiff's creditor and that it is the only creditor. Plaintiff also admits in the Amended Complaint that he understood Defendant to be a collection agency. (Doc. 8 at ¶ 11). Defendant also identified itself as a collection agency in the body of the letter.

4. Are there agreements or stipulations that can be made about any facts in this case or any element in the cause(s) of action?

Stipulation of Facts: On or around September 17, 2020, Defendant mailed Plaintiff a letter in an attempt to collect the subject obligation.

5. What are the parties' views and proposals on all items identified in Rule 26(f)(3)?

The Parties have agreed that this type of case should not present any substantial discovery disputes. The Parties anticipate discovery that will need to be conducted to be typical for a FDCPA Claim.

6. What, if any, discovery has been completed? What discovery remains to be done? Have the parties considered conducting discovery in phases?

No discovery has been completed. The parties anticipate written discovery requests to be exchanged. The parties request that discovery be stayed until there is a ruling on Defendant's Motion to Dismiss Plaintiff's Amended Complaint.

7. What, if any, discovery disputes exist?

Currently no discovery exists.

8. Have the parties discussed the desirability of filing a proposed order pursuant to Federal Rule of Evidence 502?

Currently the Parties have not discussed a proposed order.

9. Have the parties discussed mediation?

The parties do not anticipate mediation at this time.

Respectfully submitted,

Dated: February 5, 2021

/s/ Mohammed O. Badwan
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CERTIFICATE OF SERVICE

I, Mohammed O. Badwan, an attorney, certify that on February 5, 2021, the foregoing document was filed electronically using the Court's CM/ECF system, which will accomplish service on all counsel of record.

/s/ Mohammed O. Badwan